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PATENT APPLICATION

Response Under 37 C.F.R. 1.116
Expedited Procedure
Examining Group 1725

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Bernhard GOEBEL

Appln. No.: 09/933,249

Group Art Unit: 1725

Filed: August 20, 2001

Examiner: C. Shaw

For: STUD WELDING DEVICE WITH CONTACT PROTECTION

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RESPONSE AFTER FINAL REJECTION

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Attn: Mail Stop AF

Sir:

Responding to the final Office Action mailed January 25, 2005, favorable reconsideration is respectfully requested.

Claim 5 (the only claim now presented) has been rejected under 35 U.S.C. § 102(b) as being anticipated by Taylor (4,027,136). The rejection alleges that Taylor discloses a stud welding device with the features claimed and asserts that because Taylor makes no mention of movement between shield 20 and collet 18, there is no reason to suppose that such movement takes place. Applicant respectfully disagrees.

The description of the structure and mode of operation found in Taylor (4,027,136) is, at best, sketchy. The structure to the right of the collet holder 12, and its operation, is not disclosed, except for the fragmentary showing of the ram 17 and the description in column 3, lines 1-11, which states:

The ram 17 contacts the button and pushes it forward into the collet 18 to the outer end of the collet and in contact with the surface to which it is to be welded. The ram 17 also serves to carry the welding current to the button when the button is positioned to the outer end of the collet 18.

To supplement this description, Taylor clearly relies entirely on Ettinger (3,582,602) by stating that "the operation of the welding gun 10 is similar to that described in the aforementioned U.S. Pat. No. 3,582,602." Since Taylor has no other description of the operation of the Taylor welding gun, there is no basis whatsoever for concluding that Taylor's welding gun operates in a manner different from that described by Ettinger.

The operation of the Ettinger welding gun requires that the shield move relative to the button holder (collet). Ettinger clearly states that "relative movement occurs between the electrode assembly 22 and the support 20 until the shield 32 abuts the panel P as shown in Fig. 3." Actuation of switch 100 to energize the control circuit, so that the operation continues automatically, requires relative movement between the electrode assembly 22 and the support 20 until the shield 32 abuts the panel P.

Any assumption that the Taylor welding gun operates in a manner different from Ettinger is purely speculative and is directly contrary to the clear statement in Taylor that "the operation of the welding gun 10 is similar to that described in the aforementioned U.S. Pat. No. 3,582,602."

The written description in Taylor is devoid of any teaching or suggestion that the Taylor device operates in a manner different from that described in Ettinger. To the contrary, the written description in Taylor explicitly relies on Ettinger for the operation of the Taylor welding gun. The mere fact that there may be some differences between the front-end structures of Taylor and Ettinger is insufficient to conclude that the Taylor welding gun operates in a manner different from that described by Ettinger, particularly when Taylor states that the operation of his welding gun is similar to that described in the Ettinger patent.

Claim 5 of the present application requires a structure in which the insulating spacing means (e.g., shield) is fixed relative to the stud holder, with the pointed region of the stud holder always remaining behind the rim of the spacing means. It cannot be reasonably presumed that Taylor teaches such a structure, when the evidence in Taylor's description is explicitly to the contrary. Claim 5 clearly distinguishes patentably from Taylor and should be allowed.

The Commissioner is hereby authorized to charge to Deposit Account No. 50-1165 any fees under 37 C.F.R. §§ 1.16 and 1.17 that may be required by this paper and to credit

any overpayment to that Account. If any extension of time is required in connection with the filing of this paper and has not been requested separately, such extension is hereby requested.

Respectfully submitted,

NHS:lmb

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April 20, 2005